



AAA Mediation.org™

FN-12054 MN-12054 LN-12054, Esq.

Primary Areas of Expertise

New York, New York

labor



Current Employer-Title

Silberberg Dispute Resolution LLC - Founder; Dorsey & Whitney LLP - Senior Counsel TEST

Professional Summary

Highly-experienced arbitrator and mediator of complex commercial disputes (approximately 350 arbitrations and 300 mediations) for institutional and ad hoc dispute resolution tribunals throughout the world. More than 30 appointments as Tribunal Chair for commercial arbitration panels since 2018. Effective January 1, 2024, will focus practice upon independent neutral services after having spent the last 36 years as a commercial litigation partner at an AmLaw 100 firm representing litigants in a broad range of high-value commercial disputes in federal and state courts, and in administrative, arbitration, and mediation proceedings. TEST

Profession

Arbitrator and Mediator

Work History

Silberberg Dispute Resolution LLC (January 1, 2024 - Present); Dorsey & Whitney LLP, Senior Counsel (January 1, 2024 - Present), Partner (1988-2023); Delson & Gordon, Partner/Associate (1975–1987).

Experience

More than 35 years of experience as commercial arbitrator, mediator, and process facilitator for institutional and ad hoc dispute resolution tribunals throughout the world, including American Arbitration Association (Large, Complex Case, International, and Master Mediation Panels), International Institute of Conflict Prevention & Resolution (CPR), International Commerce Commission, Hong Kong International Arbitration Center.

AAA-ICDR Council (Chair, Arbitrator Committee, May 2024 to date, Member, 2021 to date); College of Commercial Arbitrators (Past President, 2017-2018; Fellow, 2007-2023); American College of Civil Trial Mediators (Fellow, 2021 to date); Chartered Institute of Arbitrators (Fellow, 2021 to date); New York International Arbitration Center (Board of Directors, 2013 to date, and Executive Committee, 2013-2018, 2024 to date).

Service as arbitrator and mediator in following industry sectors: aviation; agriculture; banking & financial services; biotechnology; construction, design & real estate; corporate governance; cybersecurity; employment; energy; entertainment; food, beverage & hospitality; franchising (hotels, mobile storage, real estate syndication, restaurants, and wireless telecommunications); healthcare; hospitality; infrastructure; insurance (D&O, disability, health/medical, marine, property & theft, and professional liability); intellectual property; life sciences; media; law, accounting and

other professional services; manufacturing; mergers, acquisitions, and other corporate transactions; motion pictures; pharmaceuticals; publishing; product distribution; professional sports (baseball, rugby, soccer); technology; telecommunications; television; theater; and transportation.

More than 45 years of experience as commercial litigation attorney, the last 36 at Dorsey & Whitney LLP, including service as Policy Committee (Board of Directors) Chair (2015–2017), Member (2013–2018); Co-Chair, International Arbitration & Litigation Group (2015–2024); Co-Chair, Class Action Litigation Group (2013–2024); Partner-in-Charge, Global Litigation and Advocacy Group and Member of Management Committee (2007–2012); and New York Office Head (1994–1997).

Mediator Experience

Illustrative cases: physician's allegedly fraudulent billing of thousands of patients for unwarranted medical services; class action alleging national grocer's mislabeling of contents of a canned food product; alleged breach of settlement agreement resolving class action claims against national tobacco manufacturer; world-renowned entertainer's allegations of partner's failure to pay royalties; famous film director's alleged failure to pay earned commissions to business manager; managing member's alleged breaches of fiduciary duties involving LLC's ownership of commercial and residential real estate; purchaser's alleged breaches of representations & warranties and fraud in connection with sale of food ingredient business; entertainment company's alleged breach of agreement to produce concert celebrating 50th anniversary of major music festival; public and private company shareholders' allegations of breaches of fiduciary duties by companies' officers and directors; alleged breaches of limited liability partnership agreement resulting in expulsion of partner from business engaged in recruitment of financial professionals; alleged breach of national media spokesperson endorsement agreement; allegedly wrongful terminations of partners by law firms and additional disputes involving law, accounting & other professional services firms; alleged trademark infringement by rock band; alleged abuses in governance of international cultural affairs organization; investment adviser's claims for compensation under financial services agreement; alleged breach of contract for sale of parking structures; hotel operator's alleged mismanagement and breach of its fiduciary duties to hotel's owners; apparel manufacturer's alleged breach of designer's employment agreement; fashion designer's alleged breach of consulting agreement; eye wear manufacturer's alleged breach of distribution agreement; licensee's alleged breach of professional sports licensing agreement; restaurant franchisor's allegedly wrongful termination of franchise agreement; furniture manufacturer's alleged breach of joint venture agreement; publisher's alleged breach of book publishing contract; joint venture partner's alleged breach of contract, conversion, and commission of civil rights violations; telecommunications company's alleged breach of sales representative agreement; purchaser's alleged breach of earn-out provision in stock acquisition agreement; insurance company's alleged breach of agreement to compensate health care provider for furnishing overseas health coverage to its insureds; insurance company's alleged failure to indemnify insured for cost of defending proceeding alleging financial mismanagement; and multiple cases alleging employment discrimination, statutory wage-and-hour violations by employers, and civil rights violations by police officers.

References: Daniel R. Guadalupe, Esq., drguadalupe@norris-law.com, (908) 252-4274; Christopher Allegaert, Esq., callegaert@abv.com; Mitch Boyarsky, Esq., mitch.boyarsky@nelsonmullins.com, (646) 428-2619; Michael Buchanan, Esq., mfbuchanan@pbwt.com; David A. Day, Esq., ddaylaw@aol.com, (516) 466-6065; Leonard A. Feiwus, Esq., lfeiwus@kasowitz.com, (212) 506-1785; Victor Johnson, Esq., vjohnson@dykema.com, (214) 462-6477; Rudolf Koch, Esq., koch@rlf.com, (302) 651-7721; Paul H. Levinson, plevinson@mclaughlinstern.com, (212) 448-6279; Michael A. Levy, mlevy29@outlook.com, (516) 365-3000; Richard A. Mattiaccio, richardmattiaccio@outlook.com, (212) 508-2311; William O'Brien, Esq., williamobrien@eversheds-sutherland.com, (202) 220-8236; Robert J. Parks, Esq., rparks@parksandsolar.com, (619) 501-2700; David M. Pohl, Esq., david.pohl@parkerpohl.com, (212) 202-1614.

Mediator Style & Process Preferences

In my role as mediator, I strive to create a constructive and respectful environment that is conducive to enabling the parties to achieve a mutually acceptable resolution of their dispute. I adapt the logistics and procedures of the mediation to accommodate the unique facts, circumstances, and dynamics of the matter at hand in order to maximize the likelihood that the parties can achieve their respective goals. I confer with each party and its counsel prior to the initial mediation session in order to build trust and ensure that I fully understand the issues and inter-personal relationships that will impact the mediation. I encourage the active participation of the parties during the mediation process. I think it is critically important that the decision makers for each party have an opportunity to hear the other side's concerns directly from their counterparts so that both sides can better understand and appreciate the potential vulnerabilities of their respective positions and the risks of

having their dispute resolved through an adjudicative process rather than by settlement. I am an active, hands-on mediator, and I try to generate creative options for resolution that will enable each party to walk away from the process feeling that it has been heard and that its interests and needs have been reasonably accommodated by the other. I approach every case as one that potentially can be settled. I never give up on a case.

Technology Proficiency

Available for in-person, hybrid, and fully remote hearings.

Proficient in conducting hearings on various online platforms, including Zoom, Microsoft Teams, and others. Typically uses online platforms for preliminary hearings, motion hearings, and status conferences.

Education

New York University (JD-1975); University of Wisconsin-Madison (BA-1972). test

Professional Licenses

Admitted to the Bar: New York (1976); U.S. District Court: Southern (1976), Eastern (1976), and Northern (2015); U.S. Court of Appeals: First (1997), Second (1981), Third (1991), Ninth (2015), Eleventh (1996), and Federal (1988) Circuits; U.S. Court of International Trade (1983); U.S. Supreme Court (1994).

Professional Associations

ADR ASSOCIATIONS:

American Arbitration Association-ICDR Council (Member, Arbitrator Committee) (2021 - Present)

College of Commercial Arbitrators (President, 2017 - 2018, Fellow, 2007 - Present)

New York International Arbitration Center (Board of Directors, 2015 - Present, Executive Committee, 2015-2018, January 2024 - Present)

Fellow, Chartered Institute of Arbitrators (2021 - Present)

Fellow, American College of Civil Trial Mediators (2021 - Present)

Member, National Academy of Distinguished Neutrals, New York Academy of Arbitrators and Mediators, and International Arbitration Club of New York

COMMUNITY ASSOCIATIONS:

Treasurer and Director, Fund for Modern Courts

Director, Lawyers' Committee for Civil Rights Under Law

RECOGNITION:

Best Lawyers in America, Arbitration Lawyer of the Year in New York (2022); Best Lawyers in America, Arbitration and Mediation (listed 2007 - Present)

Chambers USA, International Arbitrators (listed 2018 - Present); Chambers Global, International Arbitrators (listed 2022 - Present)

International Who's Who, Commercial Mediation (listed 2011 - Present)

International Who's Who, Legal Thought Leaders USA (listed 2024)

New York SuperLawyers, Business Litigation (listed 2007 - Present)

Acquisition International, Best Corporate Dispute Specialist - USA (2016)

Recent Publications & Speaking Engagements

PUBLICATIONS:

Co-Author, "Debunking Misperceptions: The Upsides of Commercial Arbitration," American Bar Association, Section of Litigation, LITIGATION JOURNAL, Vol 47, No. 4, Summer 2021, reprinted in American Arbitration Association, DISPUTE RESOLUTION JOURNAL, 2022; Co-Author, "Arb-Med: Workable or Worrisome," New York State Bar Association, NEW YORK

DISPUTE RESOLUTION LAWYER, 2019; Co-Author, "It Is Never Too Late to Arbitrate," New York State Bar Association, NEW YORK DISPUTE RESOLUTION LAWYER, 2018; Co-Author, "McLaughlin v. American Tobacco Co.: Raising the Bar Even Higher for Fraud-Based Consumer Class Actions," ANDREWS LITIGATION REPORTER, August 2008; Co-Author, "Product Defect Suits and Failure to Manifest," NEW YORK LAW JOURNAL, May 2008; Author, "Antitrust Injury in Dealer Termination Cases: One Standard or Two?" American Bar Association, Antitrust Law Section, April 26, 2002; Co-Author, "Morris' Fortifies the Corporate Veil," NEW YORK LAW JOURNAL, April 12, 1994.

RECENT SPEAKING ENGAGEMENTS (2022-2024):

"Evaluating Mediation and Other Dispute Resolution Continuum Processes in Resolving International Commercial Disputes," California International Arbitration Week, San Francisco, California, March 2024; "The Power of ADR: Resolving Hospitality Disputes," American Arbitration Association ("AAA"), November 2023; "International Mediation and Other Forms of ADR in the Americas: Developments and Challenges," International Centre for Dispute Resolution ("ICDR") Americas Conference, Mexico City, Mexico, September 2023; Commercial Arbitration Training Program, New York State Bar Association ("NYSBA") Dispute Resolution ("DR") Section, June 2023; "Well Managed Preliminary Hearings," AAA-ICDR Neutrals Conference, Rancho Mirage, California, March 2023; "Cutting Edge Topics in Commercial Arbitration," AAA and New York Law School, April 2023; "What You Need to Know About Arbitrator Selection," American Bar Association ("ABA") Business Law Section, March 2023; ABA Arbitration Training Institute, March 2023; ABA Advanced Mediation Skills & Advocacy Institute, December 2022; "Don't Just Go Through the Motions: How to Increase Your Chances of Obtaining Relief Through Motions in Arbitration," College of Commercial Arbitrators ("CCA") and Juris Publishing, September 2022; "Sleepless Nights: How Arbitrators Deal with Tricky Situations," Chartered Institute of Arbitrators, June 2022.

OTHER SPEAKING ENGAGEMENTS (2017-2021):

"How To Win Your Case at the Preliminary Hearing," CCA and Juris Publishing, October 2021; "Lessons Learned from Remote Proceedings," Garibaldi Inn of Court for ADR, September 2021; "Virtual Arbitration and Mediation of Complex Cases: Lessons Learned," Silicon Valley Arbitration and Mediation Center, 2020; "No Risk, No Reward -- How Creativity, Resourcefulness and Confidence Can Change the Face of Resolving Disputes," ABA DR Section, April 2019; "Mediation Advocacy," NYSBA DR Section, March 2019; "A Delicate Balance: Arbitrating Your Client's Complex Commercial Case Without Sacrificing Speed, Efficiency and Cost Savings," ABA Litigation Section & Solo, Small Firm and General Practice Division, 2019; "Administered v. Ad Hoc Arbitration: Procedural Dilemmas for the Arbitrator in Complex Cases," AAA and Practical Law/Thompson Reuters, September 2018; "Ethical Issues in Arbitration and Med/Arb: Problems and Ethical Cures," ABA DR Section, May 2018.

Locations Where Parties Will Not be Charged for Travel Expenses New York Metropolitan Area. TEST

Mediation Rate \$800 Per Hour

Languages Danish

Citizenship Australia

Locale New York, NY

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.